88-1202

Supreme Court, U.S.
FILED
DEC 27 1988
JOSEPH F. SPANIOL, JR.
CLERK

IN THE SUPREME COURT OF THE UNITED STATES
October Term, 1989

IVAN P. LEIDY

PETITIONER

V.

JOHN Q. STRANAHAN

FRANCIS J. FORNELLI

SHARON HERALD NEWSPAPER CO. et al,

RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT.

Ivan P. Leidy
478 Nimick St.
Sharon Pa. 16146
Pro- Se
(412) 346-3637

23pp

QUESTION PRESENTED

If my complaint was good enough for the Honorable Judge MAURICE B. COHILL JR. to deny counsel for the Respondents on the 9th day of November I987 to dismiss my complaint. Why should I file a amended complaint.

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REASONS FOR GRANTING THE WRIT ------

A. THIS CASE SHOULD BE REVIEWED BY THE SUPREME COURT AND REVERSED SO AS TO PROTECT THE CONSTITUTIONAL RIGHTS OF THE CITIZENS OF UNITED STATES OF AMERICA. ----------

B. THE JUDGMENT THAT WAS HANDED DOWN BY THE COURT OF APPEALS ON OCTOBER 13, 1988 SHOULD BE SUPPRESSED TO PROTECT OUR CONSTITUTIONAL RIGHTS.----------

CONCLUSION

TABLE OF AUTHIORTIES

CASES

To the best of my knowledge I have never read or heard of a case of this kind. I feel that it would be next to impossible to do a reseach on this case.

RULES AND STATUTES

THE CONSTITUTION OF THE UNITED STATES

The District Court and the Court of Appeals having dismissed my complaints. Have denied me of my CONSTITUTIONAL RIGHTS which are covered by ARTICLE I. VI.VII, XIII, XIV and The CIVIL RIGHTS ACT, 42 U.S.C. Sec. I983, as authorized by 28U.S.C. Sec.I33I and I343.

OPINIONS BELOW

The Opinion of the Court of Appeals for the Third Circuit is reported in the Appendix Sec. P. (2a)

The MEMORANDUM OPINION ORDER of the United States District Court for the Southwestern District of Pennsylvania. can be found on(P.I,2,3.4.5.6.7.) in the APPENDIX.

CONCLUSION

After having read MEMORANDUM ORDER that I received from the District Court of Western District of Pennsylvania. I know why the judge denied the motion to dismiss my complaint.The memorandum Order. No. 87-I427 was typed up by somebody that agreed with my complaint. I find it would be next to impossible to make amends to my original complaint. I am sending a complete copy of this ORDER.

I do not recall in all of my instructions where the Appeals Court has anything to do with amened complaints. The only thing that I know of that can be sent to the Appeals Court is a MOTION or a PETITION for REHEARING(FRAP 40). And in the instructions that I have received from the Appeals Court they don!t won!t to get these MOTION OR PETITION. This ORDER can be found in the APPENDIX.

APPENDIX

IN THE SUPREME COURT OF THE UNITED STATES

IVAN P. LEIDY

PETITIONER

V.

JOHN Q. STRANAHAN

FRANCIS J. FORNELLI

SHARON HERALD NEWS-
PAPER CO. et al.

RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

The Petitioner, hereby petition that a Writ of Certiorari be issued to review the Opinion of the United States Court of Appeals for the Third Circuit entered in this case on OCT. 13 1988,

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 88-3041

IVAN P. LEIDY

APPELLANT

V.

JOHN Q. STRANAHAN
and
FRANCIS J. FORNELLI

APPELLEES

On Appeal from the United States
District Court for the
Southwestern District of Pennsylvania
(D.C.No. 87-1427
District Judge; Hon. Maurice B. Cohill Jr.

Submitted Under Third Circuit Rule 12(6)

Before; HIGGINBOTH, SLOVITER and MARIS,
Circuit Judges.

JUDGMENT ORDER

After consideration of all contentions raised by appellant, it is

ADJUDGED AND ORDERED that the judgment of the district court be and is hereby

AFFIRMED.

I

Costs taxed against appellant

BY THE COURT

Circuit Judge

Attest;

Sally Mrvos, Clerk

NOV.IO I988

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 88- 329I

IVAN P. LEIDY and MARY L.STEVENSON

V.

SHARON HERALD NEWSPAPER CO. OTTAWAY NEWSPAPER CO. YOUNGSTOWN, VINDICATOR NEWSPAPER CO.

Ivan P. Leidy
Appellant

(Civil Action No. 88-0860
District Judge; Hon. Maurice B.Cohill Jr

Submitted Under Third Circuit RuleI2(6)
October 3, I988

BEFORE: SEITZ, COWEN,and GARTH, Circuit Judges.

JUDGMENT ORDER

After consideration of the contentions raised by Appellant Leidy, it is ADJUDGED AND ORDERED That the judgment of the district court against Appellant Leidy be and is hereby affirmed, and IT IS ORDERED that the appeal is dismissed as to Appellant Stevenson. Cost taxed against appellant.

Cost taxed against appellant.

By the Court

_____

Circuit Judge

ATTEST:

_____

Sally Mrvos, Clerk

Dated; OCT. I3 I988

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHWESTERN DISTRICT OF PENNSYLVANIA

IVAN P. LEIDY

Plaintiff Civil Action

v. No. 87-1427

JOHN Q. STRANAHAN,
FRANCIS J. FORNELLI

Defendants

MEMORANDUM ORDER

Presently before us is a motion to dismiss plaintiff!s claim. The defendants John Q. Stranahan and Francis J. Fornelli, raise a number of grounds for dismissal. Defendants argue that (I) this court lacks diversity jurisdiction;(2) The complaint fails to meet minimal requirements of specificity;(3) the complaint fails to state a cause of action against defendants upon which relief may be granted;(4)the doctrine of judicial immunity bars recovery of damages (5) the doctrine of res judicata bars this suit;(6)defendants are not proper parties. Plaintiff is respresenting himself pro-se in these proceedings.

Plaintiff!s complaint alleges diversity of citizenship, despite the fact all of that all of the named parties are Pennsylvania residents. Defendants properly protests that diversity is obviously lacking. We agree.However, we will not dismiss the complaint on the ground that we lack jurisdiction because plaintiff has alleged violations of his constitution rights, which would confer federal question jurisdiction. The Clerk of Court properly recognized that the basis of jurisdiction in this action is a federal question.not diversity, and accepted the complaint on the basis of federal question jurisdiction.

Defendants argue that the complaint fails to meet minimal pleading requirements.The complaint must provide defendants with"fair notice" of the specific claims advanced,Conley v Gibson,355U.S. 4I,48, 78S.Ct. 99, 2L. Ed.2d 80(I957)

The tenor of defendants'motion to dismiss indicates that defendants have some understanding of the nature of plaintiff!s underlying grievance. Defendants are both judges in the Court of Common Pleas of Mercer County, Pennsylvania. Plaintiff, who evidently is not incarcerated, is apparently unhappy with the course of certain judicial proceedings before Judge Stranahan and Judge Fornelli.Plaintiff alleges, among other things, that his rights under the Sixth Amendment(speedy trail), Seventh Amendment(right to trial by jury),and Eighth Amendment(protection against excessive bail, cruel and unusual punishment) have been violated, However, since plaintiff is presumably not incarcerated. this is not a petition fot writ of habeas corpus. Plaintiff has requested monetary damages. and plaintiff!s complaint is otherwise consistent with a civil rights action under 42U.S.C. I983

The Third Circuit Court of Appeals has repeatedly held that civil rights complaints must set forth'with factual specificity the conduct of defendants alleged to have harm plaintiff." Darr v. Wolfe 767 F.2d 79, 80 (3d Cir. I985); United States v. City of Philadelphia; 644 F.2d I87,204(3d Cir, I980). In part, the higher standard of specificity is designed to help the court to "weed out frivolous and insubstantial cases at an early stage in the litigation.. and still keep the doors of the federal courts open to legitimate claims". Rotolov. Borough of Charleroi 532 F.2d 920,922 (3d Cir. I976) (citing Kauffman v.Moss, 420 F.2d I270, I276 n.I5(3dCir) cert. denied 400U.S.944(I973): see also District Council 47 v. Bradley 795 F.2d 3I0, 3I7 (3d Cir. I986) (Aldisert, J. dissenting) We find that plaintiff!s complaint does not meet the specificity

standard pronounced by the Third Circuit Court of Appeals. This finding is grounds for dismissal. However, plaintiff!s pro-se status merits some special consideration. Pro se civil rights plaintiffs are granted liberal leave to amend complaints to satisfy the Third Circuit Court!s pleading requirements. See Darr, 767 F.2d at 8I; see also District Council 47, 795 F.2d at 3I7 (Aldisert, J. dissenting) ("This is not a pro se matter, plaintiffs here were represented by experience lawyers") Plaintiff!s complaintis so vague and conclusory that we are unable to divine whether plaintiff has any colorable claim. We hesitate to dismiss the complaint without affording plaintiff some opportunity to amend.

DEFENDANTS also argue that the doctrine of judicial immunity bars recovery of monetary damages. Pierson v. Ray 386U.S. 547, 87S.Ct. I2I3, I8 L.Ed.2d 288.

294-95 (I967). On the record before us, it appears likely that the doctrine of judicial immunity will dictate that this suit against the named defendants must be dismissed, However, since plaintiff is pro se and because we are unable to assess the complaint to our satisfaction, we will provide plaintiff the opportunity to amend his complaint to state with sufficient specificity a cause of action upon which relief may be granted, and which is not barred by the doctrine of judicial immunity. We will therefore deny defendants motion to dismiss with the understanding that defendants may file such a motion again, should plaintiff!s amended complaint fail to pass procedural muster.

We caution plaintiff that his complaint"must be in accordance with Federal Rule of Civil Procedure II, whichprovides that pleadings must be, to the best of

a party!s knowledge, well grounded in fact and warranted by existing law or a good faith argument for the extension, modification or reversal of existing law. Davenport v. Saint Mary Hospital, 633 F. Supp. I223, I240-4I (E.D.Pa. I986).

AND NOW, to-wit, this 9th day of November, I987, it is hereby ORDERED, ADJUDGED and DECREED that the motion to dismiss plaintiff!s originial complaint, filed by defendants John Q. Stranahan and Francis J. Fornelli, be and hereby is DENIED. Plaintiff Ivan P. Leidy be and hereby is granted until November 30, I987 to file an amended complaint setting forth his cause of action with sufficient specificity.

_____

CHIEF JUDGE

6-f

ORIGINAL COMPLAIMT

BUHL-HENDERSON COMMUNITY LIBRARY
II NORTH SHARPSVILLE AVE.
SHARON PA. I6I46
PHONE(4I2) 98I-4360

June I9, I980

Mr. Ivan Leidy
478 Nimick St.
Sharon, Pa. I6I46

Dear Mr. Leidy;

This is in regard to the legal materials you offered to the library recently.

Because of the large volume of publications involved, I wrote to the Mercer County Bar Association and also solicited opinions from individual lawyers concerning their acquisition.They belive that the average lay person would not be capable of using these materials without professional guidance, and as I stated,we do not have a legal librarian on our staff.

Also, as I stated, we have two large multi- volume Pennsylvania legal sets, "Purdon!s and the "Pennsylvania Law Encyclopedia, which are updated regularly to which we subscribbed upon the recommendation of a local attorney. We also have almost the entire Oceana series, a series which deals with specific subjects, and a number of "everyday" law books,which we feelare sufficient to meet the everyday needs of the general public, which is the specific function of a public library.The decision to enlarge this function is the prerogative of the Library Board, and at this point they have accepted the advice of the Mercer County Bar Association,

We greatly appreciate your offer and certainly are in agreement with your premise that the public should have access to information which will help them in making intelligent social andpolitical decisions,and which will aid them personally as well.

/

For your information, the Mercer County Law library is open to the public, and library personel will aid individuals who have specific questions.

Very Truly Yours

Vivian A. Johnson
Administrartor

VAJ:ah
cc, Mayor Price
Library Board menbers
Mercer Co. Bar Association

PLAINTIFF

Ivan P. Leidy PRO-SE
478 Nimick St.
Sharon Pa. I6I46

Ivan P. Leidy

QUESTION: Where in the CONSTITUTION of UNITED STATES of AMERICA Gives the LAWYERS BAR ASSOCIATION or any group of people the right to tell the people of this COUNTRY. What they cannot read or listen to; If the people are not allowed to read the LAW how are

they suppose to be law abiding citizens of this Country, I feel that what the Mercer County Bar Association did violates my Constitutional under Article " I" .

The law books that I offered to the Library was brand-new and worth about $10,000.00 dollars. I have to pay taxs to support the Library, I think that my offer should have been accepted by the Library Board.

Ivan Toleidy PRO-SE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Notice of Appeal to the FEDERAL SUPREME COURT was served on the Respondents by mailing same, CERTIFIED mail receipt on deman, to the parties named below.

William C. Kuhn
7 West State St.
Sharon Pa. I6I46

Stephen T. Bolton
Bank One Building
Youngstown, Ohio 44503

Howard M. Holmes
Suite I4I4
5I5 Market St.
Philadelphia, Pa I9I02

Date Jan. 5 I989

Ivan P. Leidy
478 Nimick St.
Sharon Pa. I6I46
Phone(4I2) 346-3637

Ivan P. Leidy